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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No: 09/593,914
Date Filed: June 14, 2000
Application Title: Probes, Probe Sets, Methods And Kits Pertaining To The
Detection, Identification And/Or Enumeration Of Yeast;
Particularly In Wine
Applicants: Hyldig-Nielsen et al.
Group Art Unit: 1655
Examiner: C. Myers
Action Date: July 18, 2001
Action Type: First Office Action On Merits - NON-FINAL
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37 C.F.R. § 1.8

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Brian D. Gildea
Reg. No. 39,995

Commissioner for Patents
Washington, DC 20231

Dear Sir or Madam:

A petition for an automatic three-month extension of time has been included with the papers accompanying this document so please consider the following response to the Office Action mailed on July 18, 2001.

I. ACTION SUMMARY

Claims 1-34, 46-49, 60-62, 72 and 80-85 stand pending in this application. The Examiner has suggested that a restriction requirement is proper with respect to claims 10, 11, 21, 22, 34, 61 and 62. The Examiner has objected claims 21 and 61 as well as objected to the sequence listing provided to The Office. Claims 1-33, 46-49, 60-62, 72 and 80-85 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-7, 9, 12, 14, 15, 20, 23, 24, 26-28, 33, 46-49, 60 and 83-85 stand rejected under 35 U.S.C. §102(a). Claims 9, 14, 15, 17, 20, 23, 24, 27, 28, 30, 33 and 60 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kosse (reference DF). Claims 9-11 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by De Wachter et al. (GenBank Accession No. X58052). Claim 72 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Stender (1999). Claims 8, 13, 16-19, 25, 29-32 and 80-82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stender (1999) in view of Stender (1998; WO98/15548; reference BB). Claim 72 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kosse (reference DF). Claims 1-8, 12, 13, 16, 18, 19, 25, 26, 29, 31, 32 and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kosse in view of Stender (1998). Claims 47, 48 and 80+85 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kosse in view of Stender (1998) and Parton (US 5,905,038). Claims 14-15, 17, 20-24, 27, 28, 30, 33, 60-62 and 72 stand rejected under 35 U.S.C. §103(a) as being unpatentable over De Wacher in view of Kosse (reference DF). Claims 12, 16, 18, 19, 25, 26, 29, 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over De Wachter in view of Kosse and in further view of Stender et al. (1998; reference BB). No claim stands allowed.

II. FORMALITIES

As set forth below, claims 21 and 61 have been amended to correct the clerical error described at page 2 of the present Office Action. In particular, "at least portion" has been amended to now read: "at least a portion".